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IN THE

Supreme Court of the United States

October Term, [redacted] 1970

No. [redacted]
218

STATE OF NEBRASKA, ex rel. LOREN B. BELKER,
Appellant,

vs.

BOARD OF EDUCATIONAL LANDS AND FUNDS, et al.,
Appellees.

ON APPEAL FROM THE SUPREME COURT OF NEBRASKA

JURISDICTIONAL STATEMENT

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May 20, 1970

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ON APPEAL FROM THE SUPREME COURT OF NEBRASKA

JURISDICTIONAL STATEMENT

Appellant appeals from the judgment and opinion of the Supreme Court of Nebraska entered October 3, 1969, and from the judgment and opinion of the Supreme Court of Nebraska entered on March 10, 1970, after granting appellant a rehearing. In each instance, appellant's position was supported by four of the seven members of the Court, thereby constituting a majority. However, under the Constitution of the State of Nebraska, acts of the legislature, such as those involved herein, may not be declared in violation of the Constitution without five affirmative votes of the Court. Appellant submits this

statement to show that the Supreme Court of the United States has jurisdiction of the appeal and that a substantial question is presented.

OPINIONS BELOW

The opinion of the Supreme Court of Nebraska is reported in 184 Neb. 621, 171 N. W. 2d 156 (1969) and the opinion entered after granting appellant's Motion for Rehearing is reported in 185 Neb. 270, 175 N. W. 2d 73 (1970). Copies of the opinions are attached hereto as Appendix A.

JURISDICTION

The suit was instituted in the District Court of Lancaster County, Nebraska seeking to declare Sections 72-208 and 72-258.01, R. R. S. 1943 and 72-257, and 72-258, R. R. S. 1943 (Cum. Supp. 1967) void and in contravention of the Constitution of the United States and the Constitution of th State of Nebraska and to enjoin the appellees from proceeding to sell *all* school lands held in trust for and on behalf of the common schools of the State of Nebraska as directed by the Legislature of the State of Nebraska. Such directions were contained in Legislative Bill 234 enacted by the 1965 Legislature of the State of Nebraska and in Legislative Bill 704 and Legislative Bill 869 enacted by the 1967 Session of the Nebraska Legislature.

On April 17, 1968, the District Court of Lancaster County, Nebraska entered an order denying the injunctive relief sought by appellant and dismissing plaintiff's petition. After the trial court overruled the appellant's Motion for New Trial on April 26, 1968, appellant filed his Notice of Appeal on April 30, 1968, and perfected his appeal to the Supreme Court of Nebraska. The Supreme Court of Ne-

braska heard arguments on this matter in January of 1969 and thereafter rendered an opinion on October 3, 1969, in which three members of the Court affirmed the decision of the District Court, while four members dissented. However under Article V, Section 2, Constitution of Nebraska, the action of the minority members of the Court prevailed and a per curiam opinion was filed affirming the judgment of the District Court. A Motion for Rehearing was thereafter duly filed and the Court granted the Motion for Rehearing and ordered reargument. Reargument was held on the 2nd day of December, 1969. Thereafter, on the 10th day of March, 1970, the same three members of the Court reaffirmed the action of the trial court, while four members of the Court again filed dissenting opinions declaring that the acts of the Legislature were in violation of appellant's rights.

Once again, due to the requirement of the Nebraska Constitution, Article V, Section 2, five members of the Court not voting to declare the acts in violation of the Constitution, the acts of the Legislature in question were held valid. Notice of Appeal to the Supreme Court of the United States was filed in the Supreme Court of Nebraska on May 8th, 1970. The jurisdiction of the Supreme Court to review this decision by direct appeal is conferred by Title 28, U. S. C., Section 1257(2).

QUESTIONS PRESENTED

There are three specific questions presented by this appeal. They are as follows:

(1) Can the Legislature of Nebraska deny to the beneficiaries of the Nebraska School Land Trust the equal protection of laws otherwise granted to beneficiaries of trusts generally in the State of Nebraska, and order all of the